

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

MARIO G. RHODES,)	ED104055
)	
Appellant,)	Appeal from the Circuit Court
)	of the City of St. Louis
v.)	1522-CC00267
)	
STATE OF MISSOURI,)	Honorable Steven R. Ohmer
)	
Respondent.)	Filed: March 7, 2017

Mario G. Rhodes (Movant) appeals the motion court's denial of his motion for post-conviction relief under Rule 24.035 without an evidentiary hearing. The State argues we must remand because it is unclear from the record whether Movant's motion was timely.

REVERSED AND REMANDED.

Division Four Holds: There is no record of the guilty plea and sentencing transcript being filed in the motion court, thus, we cannot determine from the record the date Movant's amended motion was due. Additionally, though Movant's counsel requested a 30-day extension for filing the amended motion, there is no indication in the record whether the motion court granted an extension, and no finding of timeliness or abandonment inquiry in the motion court's judgment. Thus, we must reverse and remand to the motion court to make a finding regarding the timeliness of the amended motion, and, if necessary, conduct an inquiry into whether Movant was abandoned by counsel.

Opinion by: Gary M. Gaertner, Jr., J.
James M. Dowd, P.J., and Kurt S. Odenwald, J., concur.

Attorney for Appellant: Maleaner R. Harvey
Attorneys for Respondent: Joshua D. Hawley, Mary H. Moore

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
